



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,306	11/14/2003	Dakshi Agrawal	728-240	1229
66668 7590 12/20/2007 THE FARRELL LAW FIRM - IBM 333 EARLE OVINGTON BOULEVARD SUITE 701 UNIONDALE, NY 11553				
EXAMINER				
GOODCHILD, WILLIAM J				
ART UNIT		PAPER NUMBER		
2145				
MAIL DATE		DELIVERY MODE		
12/20/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/713,306

Applicant(s)

AGRAWAL ET AL.

Examiner

WILLIAM J. GOODCHILD

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Allowable Subject Matter

1. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-10 and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Fraenkel et al., (hereinafter Fraenkel), (US Publication No. 2003/0065986).

In reference to claims 1, 4 and 12-13, Fraenkel teaches a method / system comprising:

generating and placing a session identifier (ID), (Table 1, Event Meter, record ID, transaction ID) as a correlation tag in each of a plurality of requests sent by a client to a

web server device, (paragraph 119, lines 1-6), wherein said correlation tags identify said requests, (paragraph 119, lines 10-14);

generating and placing a connection identifier (ID) as a correlation tag, (paragraph 120, lines 1-5) in each communication packet sent between the client and the web server device, (paragraph 133, lines 1-7 and 15-18);

combining said plurality of requests and said communication packets into a metric, wherein said each request and communication packet corresponding to a single event is identified, (paragraph 120, lines 1-5 and paragraph 133, 5-18, paragraph 119, lines 11-18); and

estimating client perceived response time of at least one web server computing device to a request by one or more client computing devices connected to the web server device via a network, (Abstract, paragraph 14, lines 5-6).

In reference to claim 2, Fraenkel teaches the method of claim 1 wherein:

said event is selected from one of a web page download and a web session, (paragraph 50, lines 2-3).

In reference to claim 3, Fraenkel teaches the method of claim 1 wherein:

said calculating step is performed using analytical models of response time, (paragraph 20, lines 2-3).

In reference to claim 5, Fraenkel teaches the method of claim 4 wherein:

the network is the Internet, (paragraph 13, lines 20-23 and paragraph 72, lines 9-11).

In reference to claim 6, Fraenkel teaches the method of claim 4 wherein:

said step of generating and placing the session ID further comprises a step of establishing a web session between the client and the web server device, (paragraph 72, lines 9-11).

In reference to claim 7, Fraenkel teaches the method of claim 4 further comprising:

a step of logging each web session between the client and the web server device, (paragraph 14, lines 15-18).

In reference to claim 8, Fraenkel teaches the method of claim 4 wherein:

said step of generating and placing a connection ID further comprises a step of establishing a network connection between the client and the web server device, (paragraph 72, lines 9-11).

In reference to claim 9, Fraenkel teaches the method of claim 4 further comprising:

a step of logging said each communication packet sent between the client and the web server, (paragraph 14, lines 10-14).

In reference to claim 10, Fraenkel teaches the method of claim 4 further comprising:

a step of grouping all of said plurality of requests and said communication packets corresponding to a single event, (paragraph 15, lines 2-4).

Response to Arguments

4. Applicant's arguments filed 10/09/2007 have been fully considered but they are not persuasive.

A - Applicant argues "Fraenkel et al. does not teach or disclose any networking layer type systems."

A – Network layer metrics are taught by Fraenkel [paragraph 172, measuring hop delays, paragraph 133, measuring and report segment delays incurred along a network path].

B – Applicant argues "Fraenkel et al. does not teach or disclose combining application layer and networking layer data for a comprehensive analysis."

B – Fraenkel teaches networking layer data [paragraphs 172 and 133], application layer data [paragraph 120], providing a transaction id for each piece of data [paragraphs 120, 133 and page 10, Table I]. Fraenkel teaches combining the data in a database by transaction id and providing data analysis and reporting abilities of both networking data and application data [paragraph 14]

C – Applicant argues “each of the claims use the correlation tags to identify a single web event. The single web event data that is identified is then used by the metric to generate comprehensive and real time user perceived response times that correspond to the single web event. Fraenkel et al. fall far short of this ability...”]

C – Fraenkel teaches transaction id's and events [page 10, Table I], using the data within the database, each identified by its transaction id and specific to a web event, real time reports are generated [paragraphs 14-16].

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. GOODCHILD whose telephone number is

(571)270-1589. The examiner can normally be reached on Monday - Friday / 9:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WJG
12/17/2007

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145